UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,460	08/21/2003	Joseph R. Bechtel	58889US002 1004-082US01	5943

32692 7590 03/26/2008

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

EXAMINER	
BORISSOV, IGOR N	

ART UNIT	PAPER NUMBER
3628	

NOTIFICATION DATE	DELIVERY MODE
03/26/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

LegalUSDocketing@mmm.com
LegalDocketing@mmm.com

Office Action Summary	Application No.	Applicant(s)	
	10/644,460	BECHTEL ET AL.	
	Examiner	Art Unit	
	Igor N. Borissov	3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 November 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-36* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-36* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *04/26/2007;01/11/2007;09/20/2006;05/01/2006;05/01/2006;07/26/2004;10/27/03*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 14, 28 and 35 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 17 of copending Application No. 10/385,011, and claim 33 of current application is provisionally rejected as being unpatentable over claims 1, 30, 32 of copending Application No. 10/385,011. The conflicting claims are not patentably distinct.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 requires: "generating an error message when the number of containers processed by *one the I/O* devices does not equal the number of containers processed by another one of the I/O devices", which is confusing. There is no indication in the claims how one of the I/O devices differs from another one and which particular I/O devices are actually considered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terry et al. (US 6,125,374).

Terry et al. (Terry) teaches a computer-implemented method, system and computer-readable medium having computer-readable instructions embedded therein for causing the computer to implement said method, comprising:

Claims 1, 14, 28, 33 and 35,

communicating a packaging record from a centralized packaging data (CPD) management system to device management software executing on a computing environment at a location, wherein the packaging record defines a packaging layout identifying one or more artwork elements stored by the CPD management system (Figs. 20, 21);

accessing the CPD management system from the device management software operating within the computing environment of the location to retrieve the identified artwork elements from the CPD management system (C. 4, L. 9-10, 20-29; Fig. 22);

configuring a manufacturing line within the output location to apply the retrieved artwork elements to packaging material (C. 4, L. 30-31).

Terry dose not specifically teach that said location is a remote location. However, it is old and well known to implement a computer system as a distributed computer system. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Terry to include that said computer system is implemented as a distributed computer system, because it would advantageously allow to implement said system for a geographically dispersed type of enterprise. Furthermore, in this case, each of the elements of the cited references combined by the Examiner performs the same function when combined as it does in the prior art. Thus, such a combination would have yielded predictable results. *See Sakraida,* 425 U.S. at 282, 189 USPQ at 453. Therefore, Supreme Court Decision in *KSR International Co. v. Teleflex Inc.* (KSR, 82 USPQ2d at 1396) forecloses the argument that a specific teaching, suggestion, or motivation is required to support a finding of obviousness. See the recent Board decision Ex arte Smith, --USPQ2d--, slip op. at 20, (Bd. Pat. App. & Interf. June 25, 2007).

Claims 2-4, 11, 12, 15-17, 24, 27, 29, 31 see reasoning applied to the independent claims.

Claim 26. As per assigning certain functionality to an icon (programming an interface) is considered to be a routine business task.

Claims 5-8, 18-21, 30 and 34. The method of claim 1, wherein the packaging material comprises a container (blister pack Fig. 20), the method further comprising: monitoring the number of containers processed be each of the I/O devices (storing results in a database); and generating verification information based on the number of containers processed by each of the I/O devices (storing results in the database in distributed environment suggest accounting feature).

Claims 9, 22. Terry teaches said method wherein the verification information includes the number of containers processed by each of the I/O devices (storing results in a database).

Claims 10, 23. Terry teaches said method wherein the verification information comprises a unique identifier associated with the packaging record received from the CPD management system (C. 4, L. 19-29).).

Claim 13. Terry teaches detecting errors by the system (C. 9, L. 5-6, 52-55).

As per maintaining “error log” per se, it is old and well known to log errors in the system. The motivation would be to analyze the error for preventing further errors.

Claim 32. As per “modular software architecture” per se, it is old and well known to employ modular software programming. So as modular components can work together to perform the work for which the larger program is designed while still remaining individually usable and reusable, the motivation to modify the reference would be to advantageously allow to change or modify the way one component works without adversely affecting other components in the same program.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (see form PTO-892).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Igor Borissov whose telephone number is 571-272-6801. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Igor N. Borissov/

Primary Examiner, Art Unit 3628

03/17/2008